

Bill No. SB 1388

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575-1798-06

Proposed Committee Substitute by the Committee on Agriculture

1 A bill to be entitled

2 An act relating to the Department of

3 Agriculture and Consumer Services; amending s.

4 482.021, F.S.; revising the definitions of the

5 terms "employee" and "independent contractor"

6 for purposes of pest control regulation;

7 amending s. 482.051, F.S.; revising certain

8 requirements of the department to adopt rules

9 relating to the use of pesticides for

10 preventing subterranean termites in new

11 construction; amending s. 482.091, F.S.;

12 clarifying provisions governing the performance

13 of pest control services; amending s. 482.156,

14 F.S.; requiring certification of individual

15 commercial landscape maintenance personnel;

16 revising the types of materials such personnel

17 may use; removing obsolete provisions relating

18 to fees; clarifying requirements relating to

19 proof of education and insurance; amending s.

20 482.211, F.S.; clarifying exemption of certain

21 mosquito-control activities from regulation;

22 amending s. 500.033, F.S.; renaming the Florida

23 Food Safety and Food Security Advisory Council

24 as the Florida Food Safety and Food Defense

25 Advisory Council and revising duties

26 accordingly; creating s. 570.954, F.S.;

27 providing a short title; providing legislative

28 findings; providing purposes; providing

29 definitions; establishing the Farm to Fuel

30 Grants Program; providing criteria for

31 distribution of grants; authorizing appointment

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1 of an advisory council; providing purposes;
 2 providing membership; authorizing the
 3 department to adopt rules; creating s. 220.192,
 4 F.S.; providing certain tax credits for certain
 5 producers of ethanol and biodiesel; authorizing
 6 the Department of Revenue to adopt certain
 7 rules relating to the tax credits; providing
 8 for future repeal of the tax credits; amending
 9 s. 582.06, F.S.; revising the membership of the
 10 Soil and Water Conservation Council; amending
 11 s. 828.30, F.S.; updating references to the
 12 Rabies Vaccination Certificate; providing an
 13 effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Subsections (7) and (12) of section
 18 482.021, Florida Statutes, are amended to read:

19 482.021 Definitions.--For the purposes of this
 20 chapter, and unless otherwise required by the context, the
 21 term:

22 (7) "Employee" means a person who is employed by a
 23 licensee that provides that person with necessary training,
 24 supervision, pesticides, equipment, and insurance and who
 25 receives compensation from and is under the personal
 26 supervision and direct control of the licensee's certified
 27 operator in charge and ~~licensee~~ from whose ~~which~~ compensation
 28 ~~of~~ the licensee regularly deducts and matches federal
 29 insurance contributions and federal income and Social Security
 30 taxes.

31 (12) "Independent contractor" means an entity separate

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from the licensee that:

(a) Receives moneys from a customer which are deposited in a bank account other than that of the licensee;

(b) Owns or supplies its own service vehicle, equipment, and pesticides; ~~or~~

(c) Maintains a business operation, office, or support staff independent of the licensee's direct control;

(d) Pays its own operating expenses such as fuel, equipment, pesticides, and materials; or

(e)(c) Pays its own workers' ~~worker's~~ compensation as an independent contractor.

Section 2. Subsection (5) of section 482.051, Florida Statutes, is amended to read:

482.051 Rules.--The department has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter. Prior to proposing the adoption of a rule, the department shall counsel with members of the pest control industry concerning the proposed rule. The department shall adopt rules for the protection of the health, safety, and welfare of pest control employees and the general public which require:

(5) That any pesticide used as the primary preventive treatment for ~~preconstruction treatments for the prevention of~~ subterranean termites in new construction be applied in the amount, concentration, and treatment area in accordance with the label; that a copy of the label of the registered pesticide being applied be carried in a vehicle at the site where the pesticide is being applied; and that the licensee maintain for 3 years the record of each preconstruction treatment, indicating the date of treatment, the location or address of the property treated, the total square footage of

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1 the structure treated, the type of pesticide applied, the
2 concentration of each substance in the mixture applied, and
3 the total amount of pesticide applied.

4 Section 3. Paragraph (a) of subsection (2) of section
5 482.091, Florida Statutes, is amended to read:

6 482.091 Employee identification cards.--

7 (2)(a) An identification cardholder must be an
8 employee of the licensee and work under the direction and
9 supervision of the licensee's certified operator in charge and
10 shall ~~may~~ not be an independent contractor. An identification
11 cardholder shall operate ~~may perform~~ only ~~pest control~~
12 ~~services~~ out of, and ~~or~~ for customers assigned ~~arising~~ from,
13 the licensee's licensed business location. An identification
14 cardholder shall ~~may~~ not perform any pest control
15 independently of and without the knowledge of the licensee and
16 the licensee's certified operator in charge and shall ~~may~~
17 perform pest control only for the licensee's customers.

18 Section 4. Subsections (1), (2), and (3) of section
19 482.156, Florida Statutes, are amended to read:

20 482.156 Limited certification for commercial landscape
21 maintenance personnel.--

22 (1) The department shall establish a limited
23 certification category for individual commercial landscape
24 maintenance personnel to authorize them to apply herbicides
25 for controlling weeds in plant beds and to perform integrated
26 pest management on ornamental plants using ~~the following~~
27 ~~materials~~ insecticides and fungicides having the signal word
28 "caution" but not having the word "warning" or "danger" on the
29 label, ~~insecticidal soaps, horticultural oils, and bacillus~~
30 ~~thuringiensis formulations~~. The application equipment that may
31 be used by a person certified pursuant to this section is

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1 limited to portable, handheld 3-gallon compressed air sprayers
2 or backpack sprayers having no more than a 5-gallon capacity
3 and does not include power equipment.

4 (2)(a) A person seeking limited certification under
5 this section must pass an examination given by the department.
6 Each application for examination must be accompanied by an
7 examination fee set by rule of the department, in an amount of
8 not more than \$150 or less than \$50 ~~however, until a rule~~
9 ~~setting this fee is adopted by the department, the examination~~
10 ~~fee is \$50.~~ Prior to the department's issuing a limited
11 certification under this section, each person applying making
12 application for the certification under this section must
13 furnish proof of having a certificate of insurance which
14 states that the employer meets the requirements for minimum
15 financial responsibility for bodily injury and property damage
16 required by s. 482.071(4).

17 (b) To be eligible to take the examination, an
18 applicant must have completed 8 classroom hours of plant bed
19 and ornamental continuing education training approved by the
20 department and provide sufficient proof, according to criteria
21 established by department rule, that the applicant has been in
22 the landscape maintenance business for at least 3 years.

23 ~~(b)~~ The department shall provide the appropriate
24 reference materials for the examination and make the
25 examination readily accessible and available to applicants at
26 least quarterly or as necessary in each county.

27 (3) An application for recertification under this
28 section must be made annually and be accompanied by a
29 recertification fee set by rule of the department, in an
30 amount of not more than \$75 or less than \$25 ~~however, until a~~
31 ~~rule setting this fee is adopted by the department, the fee~~

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1 ~~for recertification is \$25.~~ The application must also be
2 accompanied by proof of having completed 4 classroom hours of
3 acceptable continuing education and the same proof of having a
4 certificate of insurance as is required for issuance of this
5 ~~initial~~ certification. After a grace period not exceeding 30
6 calendar days following the annual date that recertification
7 is due, a late renewal charge of \$50 shall be assessed and
8 must be paid in addition to the renewal fee. Unless timely
9 recertified, a certificate automatically expires 180 calendar
10 days after the anniversary recertification date. Subsequent to
11 such expiration, a certificate may be issued only upon
12 successful reexamination and upon payment of the examination
13 fees due.

14 Section 5. Subsection (7) of section 482.211, Florida
15 Statutes, is amended to read:

16 482.211 Exemptions.--This chapter does not apply to:

17 (7) ~~Area~~ Mosquito control activities conducted by a
18 local government or district established under chapter 388 or
19 by a contractor of the local government or district.

20 Section 6. Section 500.033, Florida Statutes, is
21 amended to read:

22 500.033 Florida Food Safety and Food Defense ~~Security~~
23 Advisory Council.--

24 (1) There is created the Florida Food Safety and Food
25 Defense ~~Security~~ Advisory Council for the purpose of serving
26 as a forum for presenting, investigating, and evaluating
27 issues of current importance to the assurance of a safe and
28 secure food supply to the citizens of Florida. The Florida
29 Food Safety and Food Defense ~~Security~~ Advisory Council shall
30 consist of, but not be limited to: the Commissioner of
31 Agriculture or his or her designee; the Secretary of Health or

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1 his or her designee; the Secretary of Business and
 2 Professional Regulation or his or her designee; the person
 3 responsible for domestic security with the ~~Florida~~ Department
 4 of Law Enforcement; members representing the production,
 5 processing, distribution, and sale of foods; consumers or
 6 ~~and/or~~ members of citizens groups; representatives of ~~or~~ food
 7 industry groups; scientists or other experts in aspects of
 8 food safety from state universities; representatives from
 9 local, state, and federal agencies that are charged with
 10 responsibilities for food safety or food defense ~~security~~; the
 11 chairs of the Agriculture Committees of the Senate and the
 12 House of Representatives or their designees; and the chairs of
 13 the committees of the Senate and the House of Representatives
 14 with jurisdictional oversight of home defense issues or their
 15 designees. The Commissioner of Agriculture shall appoint the
 16 remaining members. The council shall make periodic reports to
 17 the Department of Agriculture and Consumer Services concerning
 18 findings and recommendations in the area of food safety and
 19 food defense ~~security~~.

20 (2) The council shall consider the development of
 21 appropriate advice or recommendations on food safety or food
 22 defense ~~security~~ issues. In the discharge of their duties, the
 23 council members may receive for review confidential data
 24 exempt from the provisions of s. 119.07(1); however, it is
 25 unlawful for any member of the council to use the data for his
 26 or her advantage or reveal the data to the general public.

27 Section 7. Section 570.954, Florida Statutes, is
 28 created to read:

29 570.954 Farm to fuel.--

30 (1) This section may be cited as the "Florida Farm to
 31 Fuel Act."

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1 (2) The Legislature finds that:

2 (a) Utilization of Florida crops and biomass for
 3 production of bioenergy is important for the state's future
 4 energy stability, protection of its environment, and continued
 5 viability of its agriculture industry.

6 (b) Development of bioenergy will help to reduce
 7 demand for foreign fuels, reduce pollution, and promote
 8 economic growth.

9 (c) Assistance in the production and distribution of
 10 bioenergy in the state is needed.

11 (d) Production of bioenergy in the state is ideal due
 12 to the state's vast amount of farm acreage and mild climate,
 13 which permit crops to be grown virtually year-round, and the
 14 availability of other biomass.

15 (3) This section is intended to provide grants to:

16 (a) Stimulate capital investment in the state and
 17 enhance the market for and promote the production and
 18 distribution of bioenergy.

19 (b) Advance the already growing establishment of
 20 bioenergy technologies in the state and attract additional
 21 bioenergy production to the state.

22 (c) Demonstrate technologies or processes that convert
 23 Florida-grown crops, agricultural wastes and residues, and
 24 other biomass into bioenergy.

25 (4) As used in this section, the term:

26 (a) "Biomass" means a power source that is comprised
 27 of, but not limited to, combustible residues or gases from
 28 forest products manufacturing, agricultural and orchard crops,
 29 waste products from livestock and poultry operations and food
 30 processing, urban wood waste, municipal solid waste, municipal
 31 liquid waste treatment operations, and landfills.

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1 (b) "Department" means the Department of Agriculture
2 and Consumer Services.

3 (c) "Person" means an individual, partnership, joint
4 venture, private or public corporation, association, firm,
5 public service company, or any other entity, public or
6 private, however organized.

7 (5) The Farm to Fuel Grants Program is established
8 within the department to provide grants for research,
9 development, and demonstration of commercial applications of
10 bioenergy technology.

11 (a) Grants made under this section for bioenergy
12 projects may be made to any person who meets the criteria in
13 this section.

14 (b) Factors the department may consider in awarding
15 grants include, but are not limited to, the degree to which:

16 1. The project stimulates in-state capital investment
17 and economic development in metropolitan and rural areas,
18 including the creation of jobs and the future development of a
19 commercial market for bioenergy.

20 2. The project produces bioenergy from Florida-grown
21 crops or biomass.

22 3. The project demonstrates efficient use of energy
23 and material resources.

24 4. The project fosters overall understanding and
25 appreciation of bioenergy technologies.

26 5. Matching funds and in-kind contributions from an
27 applicant are available.

28 6. The project duration and the timeline for
29 expenditures are acceptable.

30 7. The project has a reasonable assurance of enhancing
31 the value of agricultural products or will expand agribusiness

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in the state.

8. Preliminary market and feasibility research has been conducted by the applicant or others and shows there is a reasonable assurance of a potential market.

(6) Pursuant to s. 570.0705, the Commissioner of Agriculture and Consumer Services may appoint a Florida Farm to Fuel Advisory Council consisting of a diverse group of stakeholders that includes, but is not limited to, representatives of the agriculture industry, researchers, fuel suppliers, technology manufacturers, and environmental interests. The council shall provide advice and counsel to the Commissioner of Agriculture and Consumer Services on the production of bioenergy in the state.

(7) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.

Section 8. Section 220.192, Florida Statutes, is created to read:

220.192 Farm to fuel production tax credit.--

(1) For tax years beginning on or after January 1, 2007, a credit against the tax imposed under this chapter shall be granted in an amount to be determined as follows:

(a) A taxpayer who produces ethanol at a facility located in this state is entitled to a credit against the taxpayer's state tax liability equal to the product of 20 cents multiplied by the number of gallons of ethanol produced at the facility using Florida-grown commodities.

(b) A taxpayer who produces biodiesel at a facility located in this state is entitled to a credit against the taxpayer's state tax liability equal to the product of 20 cents multiplied by the number of gallons of biodiesel

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produced at the facility using Florida-grown commodities.

(2) The department shall adopt rules relating to the forms required to claim a tax credit under this section, the requirements and basis for establishing an entitlement to a credit, and the examination and audit procedures required to administer this section.

(3) This section is repealed July 1, 2010.

Section 9. Paragraphs (b) and (c) of subsection (1) of section 582.06, Florida Statutes, are amended to read:

582.06 Soil and Water Conservation Council; powers and duties.--

(1) COMPOSITION.--The Soil and Water Conservation Council is created in the Department of Agriculture and Consumer Services and shall be composed of 23 members as follows:

(b) Twelve ~~nonvoting ex officio~~ members shall include one representative each from the Department of Environmental Protection, the five water management districts, the Institute of Food and Agricultural Sciences at the University of Florida, the United States Department of Agriculture Natural Resources Conservation Service, the Florida Association of Counties, and the Florida League of Cities, and two representatives of environmental interests.

(c) All members shall be appointed by the commissioner. ~~Ex officio~~ Members appointed pursuant to paragraph (b) shall be appointed by the commissioner from recommendations provided by the organization or interest represented.

Section 10. Subsection (3) of section 828.30, Florida Statutes, is amended to read:

828.30 Rabies vaccination of dogs, cats, and

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1 ferrets.--

2 (3) Upon vaccination against rabies, the licensed
3 veterinarian shall provide the animal's owner and the animal
4 control authority with a rabies vaccination certificate. Each
5 animal control authority and veterinarian shall use the Form
6 ~~51~~, "Rabies Vaccination Certificate" of the National
7 Association of State Public Health Veterinarians (NASPHV) or
8 an equivalent form approved by the local government that
9 contains all the information required by the NASPHV Rabies
10 Vaccination Certificate Form 51. The veterinarian who
11 administers the rabies vaccine to an animal as required under
12 this section may affix his or her signature stamp in lieu of
13 an actual signature.

14 Section 11. This act shall take effect July 1, 2006.

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